



City Of Raleigh
NORTH CAROLINA

DATE: February 8, 2013
MEMO TO: Law & Public Safety Committee
SUBJECT: Agenda Review

The following information is provided for items scheduled for consideration by the Law & Public Safety Committee at 3:00 PM on Tuesday, February 12, 2013. The Committee will meet in Conference Room 305 of the Raleigh Municipal Building, located at 222 West Hargett Street, Raleigh.

- 11-21 Road Race Policy (12/4/12)** – Continued review and discussion of the draft policy for a program to manage use of public facilities for private recreational activities including races on streets and other public areas such as greenways.
- 11-22 Animal Control Ordinance – Various Concerns (2/5/13)** – The City Attorney's office has been reviewing City and County animal control ordinances and will present the findings of this study and any recommendations for changes. The City Attorney will also comment on the relationship of local Animal Control policies and State Wildlife Resources Commission rules regarding wildlife in the City.
- 11-19 Dumpster Collection – Time and Noise Issues (10/29/12)** – Discussion of what may be included in the new Unified Development Ordinance (UDO) regarding restriction of the ability for dumpster service operators to collect earlier than 7:00 a.m. near a residential area
- 11-12 Sweepstakes Parlors – Locations Criteria (06/19/12)** – Continued discussion regarding the status of this item.

Daniel Howe
Assistant City Manager

cc: City Attorney Tom McCormick
City Clerk Gail Smith
Community Services – Dwayne Patterson
Finance – Director Perry James, Robin Rose
IT – Gail Roper, Beth Stagner
Parks & Recreation – Diane Sauer, Scott Payne
Planning – Chief Planning Officer Mitchell Silver, Ken Bowers,
Christine Darges, Travis Brown
Police – Chief Cassandra Deck-Brown, Officers Deans, Sholar and Haines
Public Works – Director Carl Dawson, Mike Kennon

LAW AND PUBLIC SAFETY COMMITTEE AGENDA

The Law and Public Safety Committee will meet on **Tuesday, February 12, 2013 at 3:00 P.M.**

Location: Room 305, Raleigh Municipal Building, 222 West Hargett Street, Avery C. Upchurch Government Complex, Raleigh, North Carolina. For information call 919-996-3040 (City Clerk's office) or 919-996-3070 (City Manager's Office).

All the following items are pending in Committee; however, only those items that are shown in bold print will be discussed during this meeting.

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|-------------|--------------|---|
| | 11-11 | Noise Concerns – Glorious Church (6/5/12) |
| IV. | 11-12 | Sweepstakes Parlors – Location Criteria (6/19/12) |
| III. | 11-19 | Dumpster Collection – Time and Noise Issues (10/29/12) |
| I. | 11-21 | Road Race Policy (12/4/12) |

The following items were referred from the February 5, 2013 City Council meeting:

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|------------|--------------|---|
| II. | 11-22 | Animal Control Ordinance – Various Concerns (2/5/13) |
| | 11-23 | Traffic Concerns – Darien Drive (2/5/13) |

*** Council Chamber is Assistive Listening System equipped. Deaf and hearing impaired individuals needing interpreter services should provide 48-hour notice by calling 919-996-3100 (voice) or 919-996-3107 (TDD). ***

NOTE: The agenda backup will be available after 4:00 p.m. on the Friday preceding the meeting. CTRL + Click on the link below to access the City Council Committees page on the City of Raleigh Web site.

<http://www.raleighnc.gov/home/content/BoardsCommissions/Articles/CouncilCommitteeAgendas.html>



Public Street / Greenway Event Policy --- DRAFT
February 6, 2013

Objective: Encourage recreational use of streets and greenways in the City for organized walk / run / bike events, parades, etc., while respecting the need to limit the inconvenience to citizens, neighborhoods, and to regular users of these facilities, to establish a straightforward, accountable and simple process for event organizers, and to manage these events in a cost-effective and well-coordinated way by public agencies.

Events Affected By This Policy: Parades, road races, charity runs and / or walks, bicycling events and other events involving vehicles, or any other such events that involve the use of public streets or greenways and that involve disruption of normal traffic flow on these facilities.

Events Not Affected By This Policy: Street festivals, music festivals, other events (particularly in Downtown Raleigh and on the Hillsborough Street Corridor) that are coordinated through a Municipal Service District, neighborhood block parties, limited neighborhood holiday festivals (4th of July neighborhood parades, Christmas luminary walks, etc.). These events are covered by already-existing city policies and procedures.

Policies:

1. **Management Responsibility:** The Raleigh Police Department Special Operations Division will remain the primary point of contact for all events covered by this policy and will maintain the official event calendar. Aside from events scheduled in either Downtown Raleigh or in the Hillsborough Street Corridor as noted in subsection 1.2 below, RPD will review each event for conformance with this policy and shall either recommend to the City Council that a temporary street closing be approved, or may deny, suggest conditions, suggest rescheduling, or suggest relocating any requested event that does not meet this policy. RPD will coordinate the logistics of the event with the event organizer.
 - 1.1. **Distribution list.** The RPD will maintain a distribution list for coordination and notification purposes that will include at least the following agencies: Emergency Management Coordinator, Parks and Recreation, Public Works, Solid Waste Services, Fire, Public Affairs, Web Coordinator, Community Services, Public Utilities, Risk Management, Wake County EMS and any other agency or organization necessary to be notified of specific events.
 - 1.2. **Downtown and Hillsborough Street Events.** For Downtown events, and events that affect the Hillsborough Street corridor outside of downtown west to Blue Ridge Road: The Downtown Events Task Force (DETF) and the Hillsborough Street Events Task Force (HSETF) shall, after application is made to the RPD Special Operations Division, consider each proposed event for conformance with this policy and other policies that may affect the respective business improvement districts. For events that affect both Downtown Raleigh and the Hillsborough Street corridor the DETF and the HSETF shall coordinate review so as not to create a duplicate review of the same event. These coordinating bodies may recommend approval of an event to RPD, or may recommend denial, suggest conditions, suggest rescheduling, or suggest relocating any requested event that does not meet this policy. RPD will, after receiving the recommendation of the respective coordinating bodies,

continue to process the temporary street closing and coordinate (with the DETF or HSETF) the logistics of the event with the event organizer.

2. **Application and Approval.** RPD (along with the other coordinating agencies) will establish a single event application that can be used by all agencies, and that will outline specifically the process, deadlines, application materials, checklists, notification requirements and all other information necessary to allow event organizers to easily submit proposed events for approval and have a predictable timeframe to approval, and to allow agencies to effectively anticipate the impact of the event and plan accordingly.
 - 2.1. **Submittal timeframe.** Applications for approval of events on streets and greenways may be accepted at any time, but must be submitted a minimum of 90 days prior to the planned event.
 - 2.2. **Reservation of dates.** Dates for events will be reserved on the event calendar based on a first-come, first-served basis, and are subject to the policy restrictions noted in subsection 3 below. Should more than one application be submitted for the same date at the same time, RPD or the other coordinating agencies will consider the performance score (subsection 2.4 below) from prior years (if that exists for one or more of the applicants) and will grant the reservation to the organizer with the best score. If an event was held on the same date in the previous year, and the event organizer received an acceptable performance score as noted below, that event will have first priority for that same date in the upcoming year. If an event was held on the same date in the previous year, and the event organizer did not receive an acceptable performance score as noted below, that event will not have priority for that same date and the approving agency will have the option to allow reservation of the date for a different event.
 - 2.3. **Multi-year reservation contracts.** The City may enter into a contract with an event organizer to reserve the same date for up to 3 years. The purpose of this is to provide the event organizer with predictability to help attract sponsors, etc. This contract will be contingent upon maintaining an acceptable performance score as noted in subsection 2.4 below, as well as on any specific conditions that may be included in the contract, and also may be subject to cancellation as noted in subsection 2.5 below. An event must have been held at least once and have received an acceptable performance score before such a contract is considered.
 - 2.4. **Performance score.** RPD will develop (with the coordinating agencies) an objective performance scoring system that will measure the success of event organizers in meeting stated commitments, deadlines, conditions, etc. It is the intent that this scoring system be as objective as possible and be tied to deadlines, commitments, etc. that are clearly stated in the application form. This performance score will help event organizers improve events from year to year and have some predictability about date reservations for the same event in the future, reduce the impact on public agencies to respond to events, and will provide the approving agencies with a means to establish priority for the reservation of dates in the approval process as noted above.
 - 2.5. **City Council-approved economic development events.** It may be necessary from time to time for the City Council to approve special events of city-wide importance that conflict with already-approved events that have reserved dates and / or routes under this policy. In this case the City will grant a minimum of 12-month notice to any event organizer whose scheduled event will be “bumped” by such a Council-approved special event.
 - 2.6. **Fees.** RPD shall require an application fee for any event of \$100, due at the time of application, which partially defrays the cost to the City to review the route, establish a

safety plan, relocate transit stops, routes or other public facilities, and administer the calendar and approval process for temporary street closings. 50% of this fee shall be refundable if the event is canceled at least 60 days prior to the event. In addition, if any portion of the public greenway system is included on the event route, an additional fee of \$350 per greenway mile will be due. This fee is payable after the event upon billing by the Parks and Recreation Department. The City reserves the right to bill event organizers after the event for any extraordinary costs imposed on the City for such things as on-site structure repair, dropping bollards for emergency vehicle access, trash pickup, or damage to streets or greenways due to the event.

3. **Limitation on Events Within the City:** In order to continue to cost-effectively support these events with public staff, to protect the interests of citizens who are regular users of streets and greenways from undue inconvenience, and to continue to support these events that are positive for the health, recreation and well-being of participants and for the economic development of the City, the following restrictions shall be considered by the approving agencies in the reservation process:
 - 3.1. Overall limitation on annual events. No more than 100 events that involve street and / or greenway closings will be scheduled within the City in any calendar year. This restriction does not apply to events such as block parties, neighborhood events, or Downtown or Hillsborough Street festivals that are not covered by this policy.
 - 3.2. Limitation on events using the same or similar routes. Events using the same or similar routes, particularly involving heavily used thoroughfares, should not be scheduled on subsequent days or on subsequent weekends within the year. Though this policy does not apply to street festivals, block parties, etc., the approving agency should consider the impact of such events when scheduling runs, parades, cycling events etc. and may request consideration of alternate dates or routes if a proposed event falls on the same or a subsequent weekend to a street festival. In Downtown Raleigh the DETF may interpret this policy on a case-by-case basis because of the unique role downtown plays as the center of many Citywide holiday and celebratory events.
 - 3.3. Limitation on number of events on any given weekend. No more than 4 events shall be scheduled in any one weekend. No more than two of these events can be major events that either involve a run of more than 10k distance or the closure of the event route for more than 3 hours.
 - 3.4. Limitation on use of public greenways. Upon recommendation of the Parks, Recreation and Greenway Advisory Board, the City's greenway system is divided into 6 sections representing areas of the City (NE, N, NW, SE, S, SW – see attached map). No more than two events per year that involve a portion of the greenway system will be scheduled in each of the 6 quadrants – a total of 12 events per year throughout the City. If any event is held on a certified 5k course developed by the City (subsection 5.0 below), and if the certified 5k course involves a portion of any greenway, that event is NOT subject to the limitation in this paragraph.
 - 3.5. "Grandfathering" of existing events. Events that are on the schedule with temporary street closings approved by City Council prior to the effective date of this policy will be allowed to continue reserving the same date in subsequent years as long as the event receives an acceptable performance score as per subsection 2.4 above. This will be the case even if the event does not meet the limitation noted in 3.2 above.

4. **Notification policy:** City staff will develop specific notification requirements for events, based on the impact of the event and the nature of the route. These notification requirements are intended to effectively allow citizens who are potentially affected by the event to have reasonable warning of a disruption of their normal use of public streets or greenways.
 - 4.1. **Notification requirements for event organizers** will be specifically noted on the event application and will be included in criteria for the performance score as noted in subsection 2.4 above.
 - 4.2. **Notification strategies for City staff.** City staff will maintain a web site that will allow citizens to see the overall calendar, specific impending events, routes, timing, detours, etc. Push notifications will be sent prior to every weekend where an event is scheduled, based on subscriptions to this specific communication on the City web site by citizens. In addition the City will develop a process through which community groups, homeowner associations or other groups that the City has in its neighborhood registry program are notified of events in their vicinity. City staff will continue to explore other means to leverage technology to provide thorough notification of these kinds of events to citizens.
5. **Other venues not subject to this policy:** It is the City's desire to develop one or more certified 5k courses in public parks or other public property based upon available funding, in order to reduce the need to close streets or greenways, and to provide opportunities for more groups to hold organized running events in the City. Event organizers may also choose to utilize private property for events of this sort. In either case, if no public street closing is required, this policy regarding application, fees, approvals and limitations on number of events does not apply. Use of City parks and greenways for events of this type that do not involve street closings falls under existing policies, application procedures, fees and limitations already in effect in the Parks, Recreation and Greenway system in the City.
6. **Annual review of Council policy:** Each year City staff will review the policy in the light of the prior year's experience and solicit the input of stakeholders. Suggested changes, if any, will be forwarded to City Council for approval.

Sec. 12-3004. - DEFINITIONS.

For the purposes of this chapter, the *following* words and phrases *shall* have the meaning respectively ascribed to them by this section:

Animal at large. Any animal off the premises of its *owner* and not under sufficient physical restraint such as a leash, cage, bridle, or similarly effective device allowing the animal to be controlled. This definition does not apply to any areas in *City* parks that have been delineated by the *City Council* as dog exercise and play areas. Any such areas so designated *shall* be securely separated from the rest of the park by a physical barrier sufficient to prevent any animal from leaving the area unless under its *owner's* restraint and control.

Animal control shelter. Any holding or other facility designated by the *City Council* for the detention of animals.

Animal control warden. A *person* designated as such to perform duties described by this chapter.

Animal under restraint. Any animal confined within a vehicle, confined within the *real property* limits of its *owner* or secured by leash or lead.

Anti-climber. A device consisting of angled metal braces and barbed wire, which wire is stretched between each angled metal brace, all of which is attached to the top of a fence. The wire *shall* be at least three (3) strands, separated evenly, the furthest being no less than eighteen (18) inches from the top of the fence. It *shall* extend inwards at an angle of not less than forty-five (45) degrees, nor more than ninety (90) degrees, measured from perpendicular or, in lieu of barbed wire, an electrically charged wire attached to the top of the fence.

Cattery. A commercial establishment wherein any *person*, for profit, buys, sells, boards, breeds or grooms cats.

Dangerous Dog. Any dog that has been determined by Animal Control to be dangerous as defined by N.C.G.S. § 67- 4.1

Domesticated animal. An animal such as is accustomed to live in or about the habitation of men, including but not limited to cats, cows, dogs, fowl, horses, and domesticated wild animals. This definition does not include hogs, pigs, swine, or any other member of the Suidae family if the animal weighs more than one hundred (100) pounds or is more than twenty-two (22) inches high when measured at the shoulder and the definition does not include any member of the Ursidae or Felidae families of the Carnivora order if the animal weighs more than thirty-five (35) pounds. No more than two (2) hogs, pigs, swine or other Suidae allowed by the above criteria shall reside or be maintained at any dwelling unit or at any non-residentially zoned parcel.

Holding facility. Any pet shop, kennel, cattery, or combination thereof.

Inoculation or inoculation against rabies. These terms *shall* mean the vaccination or inoculation of a dog or a cat with an antirabic vaccine approved by the United States Bureau of Animal Industry, the North Carolina State Department of Agriculture and the North Carolina State Board of Health and/or the local health director, as defined in G.S. 106-364(2).

Kennel. A commercial establishment wherein any *person*, for profit, buys, sells, boards, breeds, grooms, lets for hire, or trains for a fee, dogs. This *shall* not include the ownership of dogs which are

not a part of the household or which are maintained adjoining a private *residence* for hunting, tracking practice, exhibition, or the guarding or protection of the *owner's* property when no more than five (5) dogs per year are sold by such *owner*; provided, that all dogs trained or sold for attack and security *shall* be trained by a trainer licensed pursuant to this chapter.

Owner. Any *person* owning, keeping, harboring, possessing, or acting as custodian, however temporarily, of an animal; provided, however, that a *person* having temporary custody or possession of an animal for the sole purpose of turning over such animal to a member of the animal control division or other peace *officer shall* not be deemed the *owner* of the animal.

Pet. A domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, birds, cats, dogs, fish, hamsters, mice, reptiles, domesticated wild animals and other animals associated with man's environment.

Pet shop. A commercial establishment, which offers for sale two (2) or more species of live animals with the intent that they be kept as pets.

Potentially Dangerous Dog. Any dog that has been determined by Animal Control to be potentially dangerous as defined in N.C.G.S. § 67- 4.1.

Public nuisance animal. Any animal or group of animals which:

- (a) Is repeatedly found at large.
- (b) Damages the *property* of anyone other than its *owner*.
- (c) Is vicious.
- (d) Causes fouling of the air by odors.
- (e) Causes unsanitary condition of enclosures or surroundings.
- (f) By virtue of number or type is offensive or dangerous to the public health, safety, or welfare.
- (g) Excessively makes disturbing noises.
- (h) Is diseased and dangerous to the public health.

Tether Tying out or fastening a dog outdoors on a rope, chain or other line for restraining a dog. The term does not mean the restraint of a dog on an attended leash.

Trainer. Any individual who holds himself available to the general public for the purpose of training attack and security dogs. This does not include individuals who are in the business of obedience training only.

Vicious animal. Any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and severity as to cause *property* damage or physical injury.

Weekdays. Monday through Saturday inclusive, excluding local, state and national legal holidays.

(Code 1959 , §4-4; Ord. No. 1980-502, §1, 10-21-80; Ord. No. 1996-833, §1, 2-20-96; Ord. No. 2000-843, §1, 7-18-00; Ord. No. 2003-400, §1, 3-18-03; Ord. No. 2009-552, §1, 3-3-09, eff. 7-1-09)

ARTICLE C. - NUISANCE ANIMALS

[Sec. 12-3021. - PUBLIC NUISANCE ANIMALS.](#)

[Sec. 12-3022. – CONFISCATION OF DANGEROUS OR POTENTIALLY DANGEROUS DOG](#)

[Secs. 12-~~3022~~-3023 — 12-3030. - RESERVED.](#)

Sec. 12-3022. – CONFISCATION OF DANGEROUS OR POTENTIALLY DANGEROUS DOG

Any dangerous or potentially dangerous dog that is not kept in accordance with the requirements of N.C.G.S § 67-4.1 may be confiscated by an animal control officer and harbored at the owner's expense until the owner complies with the requirements of N.C.G.S. § 67-4.1.

Secs. 12-~~3022~~-3023 — 12-3030. - RESERVED.

COUNCIL MINUTES – (EXCERPT)

The City Council of the City of Raleigh met in a Unified Development Ordinance Work Session at 4:00 p.m. on Monday, October 29, 2012 in the City Council Chamber of the Raleigh Municipal Building, Avery C. Upchurch Government Complex, 222 West Hargett Street, Raleigh, North Carolina, with the following present:

Mayor Nancy McFarlane
Mayor Pro Tem Russ Stephenson
Mary-Ann Baldwin (late arrival)
Councilor Thomas G. Crowder
Councilor Bonner Gaylord
Councilor John Odom
Councilor Randall Stagner
Councilor Eugene Weeks

Mayor McFarlane called the meeting to order at 4:03 p.m. All Council members were present except Ms. Baldwin, whose arrival is noted later in these minutes.

UNIFIED DEVELOPMENT ORDINANCE – INFORMATION RECEIVED; DUMPSTER COLLECTION TIME AND NOISE ISSUES REFERRED TO LAW AND PUBLIC SAFETY COMMITTEE

Prior to the review of Chapter 4 – Special Districts edits as recommended by the Planning Commission, Senior Travis Crane introduced the staff report containing 22 questions submitted by Council members regarding Chapter 3 – Mixed Use Districts. Staff had met individually with the Councilors who generated these questions to see if there were any pending or unresolved issues based on staff's responses. He briefly highlighted the following staff report:

City Council Workshop – 29 October 2012

Staff will begin review of Chapter 4, providing an overview of the chapter. This document contains a summary of Chapter 4 in section 1, a list of City Council submitted questions or comments in section 2, and a list of deferred items in section 3.

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Mr. Stephenson's other concern related to indoor establishments with live music indoors. He has a difficult time trying to monitor noise and the low decibel thud that travels from a building across the transition area, and wondered if the City ever dealt adequately with that problem. Senior Planner Crane reminded him the City has a noise ordinance and requires outdoor amplified entertainment permits.

Mr. Crowder stated there is a problem with dumpster facilities, specifically, there is no ordinance regulating the time for emptying dumpsters. We are now talking about putting dumpsters in the back of properties adjacent to single family back yards. The trash collection trucks are coming

to empty the dumpsters as early as 4:00 a.m., banging dumpsters and making beeping sounds. Mr. Crane agreed there is nothing in the UDO or the City Code regulating the collection time, and the Deputy City Attorney said that regulating dumpster emptying hours is not a zoning regulation for the UDO. He also reminded the Council that the garbage trucks are required by federal law to have a beeping sound when they are backing up. Mayor McFarlane asked if it could be regulated in the UDO by stating dumpster collection cannot take place within so many feet of single family or other specific zoning areas. Deputy City Attorney Botvinick replied this regulation deals with a commercial use locating next to a residential zoning district. There are apartment buildings next to residential zoning districts, but they would not fall under this regulation because they are not commercial. Dealing with this on a comprehensive basis is best done through an ordinance in the City Code. He suggested talking to industry representatives to see if there is anything that is easily enforceable. Development Services Manager Darges said the Council could restrict where it is located in Zone B. Mr. Crowder opined it is better to handle this by ordinance, as it needs to be prohibited during certain times. Deputy City Attorney Botvinick said the City Attorney's office will check into the matter, but it probably should be referred to a Council Committee to determine the right rules and regulations. Ms. Baldwin offered to take it into the Law and Public Safety Committee and without objection, the Mayor announced it was so referred.

ADJOURNMENT

There being no further business before the City Council, Mayor McFarlane announced the meeting adjourned at 5:50 p.m.

Leslie H. Eldredge
Deputy City Clerk



City Of Raleigh *North Carolina*

DATE: August 9, 2012

TO: Law and Public Safety Committee

FROM: Greg Hallam, Planning Manager

SUBJECT: Sweepstakes Parlors

CITY OF RALEIGH REGULATIONS GOVERNING SWEEPSTAKES PARLORS

Currently, the City's Zoning Code classifies Sweepstakes Parlors as a "Retail Sales – Convenience" land use, permitted as a general use within the Neighborhood Business, Shopping Center, Business, Thoroughfare, Industrial-1 and Industrial-2 zoning districts. In order to obtain a City of Raleigh Business license for this use, the following fees are required:

- \$3,500.00 for the first computer
- \$1,000.00 for each additional computer thereafter w/ a maximum cap of \$20,000 per establishment

To date, the City's Zoning Enforcement Office has not received any complaints associated with these businesses.

CONSIDERATIONS FOR ADDITIONAL REGULATIONS OF SWEEPSTAKES PARLORS

The City currently regulates several uses through distance separations which are believed to either be incompatible with residential uses or create negative impacts when located within close proximity of each other. These are:

- Rooming Houses (1200-foot separation from a similar use)
- Supportive Housing Residences (375-yard separation from a similar use),
- Bed & Breakfast Inns (400-foot separation from a similar use),
- Carwash Facilities (200-foot separation between open bay and a residential use),
- Composting Facilities (300-foot separation from a residential use),
- Outdoor Storage of Recyclable Materials (400-foot separation for a residential use),
- Storage Yards for Wrecked Vehicles (one mile separation from a similar use),
- Adult Establishments (2000-foot separation from a similar use and 2000-foot separation from any church, school, day care or residential use located within a Residential, O&I-1, O&I-2 or Buffer Commercial zoning district).

When drafting new land use regulations for specific uses, the City's Planning and Zoning Division attempts to understand the negative impacts associated with the subject use in order to propose proper regulations to help mitigate the negative impacts. As an example, impact studies were undertaken on adult establishments (sexually oriented businesses) which provided evidence that an overconcentration of these uses and proximity to residential could increase crime and/or reduce property values. This study has enabled municipalities the right to adopt regulations separating these uses from each other and requiring minimum distance separations from residential uses. Therefore, if the Committee desires to move forward on drafting additional regulations for the location of Sweepstakes Parlors throughout the City, it would be helpful for the Committee to identify the problems associated with these uses in order to impose adequate provisions to help mitigate their negative impacts.

Walt Fulcher, Robert Pearce and I will be in attendance at the meeting to answer any questions of the Committee.

SUMMARY OF RESTRICTIONS CONCERNING INTERNET CAFES, ELECTRONIC GAMING, OR SWEEPSTAKES BUSINESSES IN OTHER MUNICIPALITIES IN NORTH CAROLINA

Town of Cary	Current Code does not allow this type of use, but they are currently working to modify their Code to allow the use in the Business District, but any establishment must be a minimum of 500 feet from any residence, school, or church
City of Durham	Handled like any other retail sales use
City of Charlotte	All proposed sites have to go through commercial plan review and establishments must be separated by a minimum of 400 feet
City of Greensboro	Handled like any other retail sales use
City of Wilmington	All establishments shall be separated no less than 500 feet from any place of worship, school, daycare, public park, residential use or zoning district, and any other electronic gaming establishment. Establishments shall not be permitted within any gateways into the City.
City of Asheville	Zoning district determines number of machines allowed in an establishment (Maximum # of 20). No one allowed under 18 years of age and no check cashing allowed in same business.



City Of Raleigh
North Carolina

DATE: October 18, 2012

TO: Law & Public Safety Committee

FROM: Robin Rose, Deputy Financial Officer

SUBJECT: Internet Sweepstakes Businesses

Cities are granted a general taxing authority on businesses and may levy a **reasonable** privilege license tax on any business activity unless a tax on a particular activity is either limited or prohibited by State law. The Privilege License tax is an excise tax levied on the privilege of conducting business within the city. Referring to the tax as a “privilege license” can be misleading because the word “license” may be misunderstood to mean that the tax has a regulatory element. **The privilege license tax is a revenue-generating measure and should not be used to regulate otherwise legitimate businesses through high license tax rates. The concern in attempting to give the privilege license tax too large of a regulatory role is that the fee or tax that accompanies regulatory measures may not exceed the cost of administering the regulation.**

Internet sweepstakes (electronic gaming) businesses in the City of Raleigh are subject to a tax of \$2,500 per business plus \$1,000 per machine with a maximum tax of \$20,000. The privilege license tax generated by internet sweepstakes businesses in Raleigh is approximately \$500,000 per year. Unless restricted or exempted by State law, other businesses in Raleigh pay a privilege license tax based on the gross receipts of the business with a maximum tax of \$20,000. **A court in North Carolina has held that the tax on internet sweepstakes businesses cannot be excessive in comparison to other businesses. We feel the City’s tax rate on these businesses would not be challenged since the maximum tax applicable to all businesses is the same.**

Attached is a spreadsheet outlining a few privilege license tax rate scenarios including increasing the rate per machine and/or removing the maximum tax limit. Increasing the rate per machine does not affect the majority of the sweepstakes businesses currently operating since most of the businesses already pay the maximum privilege license tax or the businesses have so few machines that the increase is not significant given the number of machines. The only way to significantly increase the privilege license tax for sweepstakes businesses is to remove the maximum tax cap. However, as discussed above, attempting to regulate or discourage this type of business activity through a high rate of privilege license tax would likely be successfully challenged in the courts.

Also attached is a chart detailing the internet sweepstakes privilege license tax schedules for several large and small municipalities in North Carolina. Similar large municipalities have maximum taxes ranging from a \$10,000 to no maximum. The highest tax assessed to a single sweepstakes business in these large municipalities is \$32,500.

The payment of the privilege license tax does not satisfy or negate other local regulations such as zoning codes or health codes which can be used to regulate business activities.

Comparison of North Carolina Cities/Towns Electronic Gaming Privilege License Fees

Larger Municipalities

MUNICIPALITY	POPULATION	FEE	MAXIMUM TAX/FEE	MAXIMUM TAX ASSESSED TO DATE FOR SINGLE BUSINESS
Charlotte	772,627	Taxed on Gross Receipts	\$10,000	\$10,000
Durham	228,330	Taxed on Gross Receipts + \$5 per machine	No Maximum	\$2,500
Greensboro	269,666	\$2,500 per business + \$500 per machine	No Maximum	\$32,500
Raleigh	403,892	\$2,500 per business + \$1,00 per machine	\$20,000	\$20,000
Winston-Salem	228,362	\$2,500 per location + \$500 per machine	No Maximum	\$32,500

Smaller Municipalities

MUNICIPALITY	POPULATION	FEE
Aberdeen	4,776	\$2,000 per location + \$2,500 per machine
Canton	4,042	\$2,500 for 1st 4 machines + \$700 per machine after
Carolina Beach	5,089	\$3,000 per machine
Clinton	8,645	\$25 flat fee
Dunn	10,221	\$2,600 per location - Council considering adding a per machine charge
Elkin	4,211	\$5,000 per location + \$3,000 per machine
Fairmont	2,613	\$2,500 per machine
Franklin	3,508	\$2,600 per location
Graham	12,894	\$1,000 per business
Hendersonville	12,997	\$2,600 flat fee
Hillsborough	6,677	\$75 per location
Kannapolis	37,135	\$500 per machine
Laurinburg	15,974	\$2,000 flat fee + \$2,500 per machine
Leland	12,623	\$3,000 per machine
Long View	4,963	\$1,000 per business
Maggie Valley	1610	\$2,500 for 1st 4 machines + \$750 per machine after; 1 machine per 1,000 square feet of floor space
Matthews	22,613	\$2,000 per location
Mayodan	2,420	\$5,000 flat fee with a max of 12 machines
Oxford	9,500	\$500 per machine + a percentage of gross receipts
Rowland	1,150	\$300 per machine
Roxboro	9,500	\$1,000 per business + \$500 per machine
Wendell	5,796	\$1,000 per machine + gross receipts
Wilkesboro	3,174	\$2,600 per location
Wilmington	101,526	\$3,000 per machine (proposed) - looking at a tiered structure per Council's request.
Zebulon	5,444	\$200 per machine